IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5011 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAVITABEN WD/O KALIDAS G PATEL & 20 - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

(MR GN DESAI) for Petitioner(s) : 1, 9,20 - 21.MR BS PATEL for Petitioner(s) : 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6, 1.2.7, 1.2.8,1.2.9 MRS RANJAN B PATEL for Petitioner(s) : 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6, 1.2.7, 1.2.8,1.2.9 NOTICE SERVED for Petitioner(s) : 2, 4, 10,13 - 14, 16, 19,MR PRASHANT G DESAI for Petitioner(s) : 3,NOTICE UNSERVED for Petitioner(s) : 5 - 6, 8, 11, 15,17 - 18.UNSERVED-EXPIRED (N) for Petitioner(s) : 7, 12,
Mr. MR Mengdey, AGP for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2 - 3.
MR MANISH R BHATT for Respondent(s) : 4,
MR RP BHATT for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/09/2005

ORAL JUDGMENT

In this petition under Article 226/227 of the Constitution of India, the petitioners have

prayed for an appropriate writ, order or direction directing the respondent State Government to treat the Notification issued by the State Government in Urban Housing and Urban Development Department dated 31st January 1986 in Part IV-B of the Gujarat Government Gazette Extraordinary finalising the modification in the Draft Development Plan submitted by the Surat Urban Development Authority by which the lands in question of Village Ichhapore are directed to be deleted from the use as agricultural zone and are directed to be reserved for housing for KRIBHCO under Section 12(2)(k) of the Gujarat Town Planning and Urban Development Act, 1976 as shown in the plan accompanying the said Notification at Sr. No. 67, as cancelled, and directing the State Government not to implement or to act in furtherance of the said alleged reservation and to treat the sanction of the said development plan insofar as the lands in question are concerned as being void and of no effect.

2. It appears from the record, that the acquisition in favour of respondent No.4 KRIBHCO of the lands in question for public purpose came to be challenged by the very village people by way of *Special Civil Application No. 5018 of 1983* on number of grounds. The said Special Civil Application came to be dismissed by the Division Bench of this Court [Coram: P.R. Gokulakrishnan, C.J. And P.M. Chauhan, J., as they then were] by judgment and order dated

18th April 1989 and the acquisition in favour of respondent No.4 came to be confirmed. In view of the above and the judgment and order passed by the Division Bench of this Court in *Special Civil Application No. 5018 of 1983* dated 18th April 1989, the challenge on the part of the petitioners in the present Special Civil Application will not survive.

3. In the facts and circumstances and for the reasons stated in the judgment and order dated 18th April 1989 passed by the Division Bench of this Court in the said Special Civil Application No. 5018 of 1983, the present Special Civil Application is required to be dismissed and it is accordingly dismissed. Rule is discharged. Ad-interim relief, if any, stands vacated forthwith.

[M.R. Shah, J.]

RMR.